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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 516 000100	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>12/18/2006</u> Signature <u>Diane Hudson</u> Typed or printed name <u>Diane Hudson</u>		Application Number 10/628,827	Filed 07/18/2003
		First Named Inventor HEYSON	
		Art Unit 2644	Examiner FAULK, DEBORA
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/86) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>34,693</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		 Signature <u>BRUCE STUCKMAN</u> Typed or printed name <u>512-241-8444</u> Telephone number <u>12/18/2006</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
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**RECEIVED
CENTRAL FAX CENTER****DEC 18 2006****PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****Applicant:** Henson
Serial No: 10/628,827**Examiner:** Faulk, Devona
Art Group: 2644**Filing Date:** 7/28/03**Docket No:** SIG000100**Title:** Pop and Click Reduction using DAC Power Up and Power Down Processing**Pre-Appeal Brief Request for Review**

1. In the Office Action dated 7/28/2006, claims 7, 9, 13, 20, and 21 were rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claims 2-6, 8, 10-19, and 22 were rejected under 35 USC § 103 (a) as being unpatentable over Hewitt (U.S. Patent No. 5,796,851) in view of Kobayashi (U.S. Patent No. 5,764,005) and in further view of Yahagi (U.S. Patent No. 6,783,073). Applicant respectfully believe that there is a clear deficiency in the prima facie case in support of this rejection and requests review of the allowability of claims 2-15 and 17-22 pursuant to the Pre-Appeal Brief Pilot Program.

2. Claims 7, 9, 13, 20, and 21 were rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The applicant respectfully submits that these claims are sufficiently definite.

A. Claims 7, 9, 20 and 21 were rejected based on "wherein the clamping switch is on to clamp the output to the return potential", "wherein the clamping switch is turned on to clamp the output to the return potential", "wherein the clamping switch is turned on to clamp the analog output to the return potential", and "wherein the clamping switch is turned on to clamp the analog output to the return potential". In particular, the Examiner asserts that these claims are indefinite, as to which output (the audio amp or the DAC) is being clamped.

Claims 7 and 9 recite that the "output" is clamped. Each of these claims depend from claim 6 that recites a single term "output". In particular, claim 6 recites, "an audio amplifier to generate an output to an audio load". Applicant asserts that the language of claims 7 and 9 are clear that it is the audio amplifier output of claim 6 is the proper and only antecedent basis for the term "output" used in claims 7 and 9. For this reason, claims 7 and 9 are believed to be sufficiently definite to satisfy the statute.

Claims 20 and 21 recite that the "analog output" is clamped. Each of these claims depend from claim 18 that recites a single term "analog output". In particular, claim 18 recites, "an audio amplifier to generate an analog output to an audio load". Applicant asserts that the language of claims 7 and 9 are clear that it is the audio amplifier analog output of claim 18 is the proper and only antecedent basis for the term "analog output" used in claims 20 and 21. For this reason, claims 20 and 21 are believed to be sufficiently definite to satisfy the statute.

B. Claims 7, 9, 20 and 21 were also rejected based on the language "wherein the clamping switch clamps the output node to the return potential at initiation of a powering (up, down) sequence". Step 42 of Figure 4 and the accompanying discussion clearly show this feature in conjunction with powering up. Step 53 of Figure 5 and the accompanying description clearly show this features with respect to powering down. In this case, at "initiation" clearly means the phase of the power up sequence before the audio amplifier is powered up and the phase of the power down sequence before the audio amp is powered down. For these reasons, claims 7, 9, 20 and 21 are believed to be sufficiently definite to satisfy the statute.

C. Claim 13 was rejected based on the phrase, "turning of the clamping when the amplifier is substantially turned on." As an initial point, the Applicant admits that the phrase "turned of" should be amended to recite "turned off" and authorizes this change via Examiner's amendment. Otherwise, Examiner points out that claim 13 is dependent from claim 11 and that claim 11 does not recite that a condition exists wherein the

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amplifier is off or wherein the clamping is turned on. Applicant asserts that this is not required. Claim 13 correctly refers to "the amplifier" and introduces the condition when the amplifier is turned on. In addition, claim 13 correctly refers to "the clamping" and introduces that the clamping is turned off. For these reasons, claim 13 is believed to be sufficiently definite to satisfy the statute.

2. Claims 2-6, 8, 10-19, and 22 were rejected under 35 USC § 103 (a) as being unpatentable over Hewitt (U.S. Patent No. 5,796,851) in view of Kobayashi (U.S. Patent No. 5,764,005) and in further view of Yahagi (U.S. Patent No. 6,783,073). The applicant respectfully disagrees with the present rejection because at least one claim element is not met by this reference.

Kobayashi does not teach or suggest such a clamping to a power return potential (e.g., ground), which effectively prevents a signal of any significant magnitude from being outputted. In contrast, Kobayashi teaches a clipping circuit which allows a signal to be outputted, but with a clipped magnitude V_D .

Examiner reasserts that a clipped magnitude reads on a power return potential. Applicant respectfully asserts that Kobayashi can not be read in this fashion. In particular, Kobayashi discloses power return potential (a ground element) in his circuit of Fig. 4 that is not V_D . Instead, Kobayashi discloses that V_D is an adjustable quantity (see column 5, line 30-44) rather than a power return potential. For these reasons, claims 6, 11, 18 and 22, and claims 2-5, 10-17, 19 and 22 that depend therefrom, are believed to be patentably distinct from the prior art.

For the foregoing reasons, the applicant believes that claims 2-15 and 17-22 are in condition for allowance and respectfully request that they be passed to allowance.